

ANALYSIS OF ORIGINAL BILL

Author: Morrow Analyst: Darrine Distefano Bill Number: SB 1631
Related Bills: See Legislative History Telephone: 845-6458 Introduced Date: 02-21-2002
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Military Rental Housing Property Tax Credit**SUMMARY**

This bill would allow a credit for property tax paid for rental housing that is occupied by a member of the Armed Forces and their families.

PURPOSE OF THE BILL

It appears the intent of this bill is to provide an incentive to rental property owners to continue to rent, begin to build, or otherwise provide homes to military personnel and their families.

EFFECTIVE/OPERATIVE DATE

This bill is a tax levy and would be effective immediately upon enactment. It specifies that it would apply to taxable years beginning on or after January 1, 2003, and before January 1, 2008.

POSITION

Pending.

ANALYSISFEDERAL/STATE LAW

Existing state and federal laws provide various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child adoption) or to influence behavior, including business practices and decisions (e.g., research credits or economic development area hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake.

Current state and federal laws generally allow taxpayers engaged in a trade or business to deduct all expenses that are considered ordinary and necessary in conducting that trade or business.

Under federal and state laws, compensation received by a member of the Armed Forces is subject to income tax unless specifically excluded. There are also certain benefits and allowances that are excludable from gross income. One of these items is the Basic Allowance for Housing (BAH). The BAH provides equitable housing compensation for those members who live in non-government housing outside the military base.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
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<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

Alan Hunter for GHG

03/29/02

THIS BILL

This bill would allow a 100% credit for property tax paid or incurred by a taxpayer that rents a home, an apartment, or a room within a home or guest house to a member of the Armed Forces and their family for an unspecified amount of time.

Any credit that exceeds the taxpayer's tax liability could be carried over indefinitely.

IMPLEMENTATION CONSIDERATIONS

This bill uses terms that are undefined, i.e., "attributable", "accommodate" and "members of the armed forces." It is unclear if the members of the Armed Forces need to be on active duty or whether members in the reserves would qualify. It also would be helpful if the bill defined "their families" to mean members of the Armed Forces immediate family, i.e., spouse and dependent children, or relatives that reside in their household. The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this credit.

The bill uses the term "members of the armed forces." In order to provide consistency, the bill should use the federal and state term of "members of the Armed Forces of the United States."

This bill does not specify how long a taxpayer has to rent to a member of the Armed Forces and their family in order to qualify for the credit. A taxpayer could rent the home for one month, then occupy the property for personal use for the duration of the taxable year and still qualify for the credit. This would also apply to a person who rents a room within a home or rents the guest home located on their primary residence to a member of the military. If this is not the author's intent, further clarification is needed.

Also, the bill does not provide rules for the situation where an owner of an apartment complex rents to both military and non-military tenants. It would be helpful if the bill clarified that the property tax would be prorated based on the share of the total rent payments from members of the military.

This bill does not limit the number of years for the carryover period. The department would be required to retain the carryover on the tax forms indefinitely because an unlimited credit carryover period is allowed. Recent credits have been enacted with a carryover period limitation since experience shows credits typically are exhausted within eight years of being earned.

LEGISLATIVE HISTORY

AB 2487 (Bates, 2001/2002) is identical to this bill. This bill is currently in the Assembly Revenue and Taxation Committee.

PROGRAM BACKGROUND

The homes on military bases are in poor condition and there is a shortage of affordable, quality private housing available for military members and their families near the military bases. In 1996, President Clinton signed into law the National Defense Authorization Act that contains the Military Housing Privatization Initiative. This Act gives the Department of Defense (DoD) the authority to work with the private sector to build and renovate military housing.

OTHER STATES' INFORMATION

Florida corporate law, Illinois, Massachusetts, Michigan, Minnesota, and New York laws do not provide a credit comparable to the credit allowed by this bill. The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

Upon further research of states with an active military base, the *Texas* Comptroller is recommending that the Texas Legislature amend Texas law to grant an exemption from school district property taxes for military reservists called to active duty.

FISCAL IMPACT

Once the implementation concerns are resolved, this bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in revenue losses as shown in the following table:

Revenue Impact*			
Tax Years Beginning After December 31, 2002			
Enactment Assumed After June 30, 2002			
(\$ Millions)			
Fiscal Year	2002-03	2003-04	2004-05
	-\$5	-\$130	-\$110

*Rounded to the nearest \$5 million.

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Revenue Discussion

The amount of credits used in fiscal year 2002-03 is low compared to subsequent fiscal years because it includes only the first half of the tax year in which the credit goes into effect. It also takes into account the delay in the allocation of the qualified portion of property tax attributed to military tenants. The sharp increase in 2003-04 reflects the first full tax year in which the property tax may be claimed, plus a portion of 2004 property tax.

The revenue analysis is based on available data and makes the following assumptions: 1) "accommodate" in the bill means units occupied by qualified military personnel in California; 2) the credit to the property owner would be prorated based on that share of the total rent payments received by qualified members of the Armed Forces; and 3) the members of the Armed Forces being accommodated are active duty military, not part-time reservists or National Guard.

Data provided by the Office of the Deputy Undersecretary of Defense (Installations and Environment) identifies 56,650 active duty military members currently renting housing not provided by the government in California. Property tax projections were derived from median home values as reported by the California Association of Realtors. The revenue estimates allowed for an allocation of property taxes to owners in cases of multiple family rental property having both qualified military and non-military renters.

ARGUMENTS/POLICY CONCERNS

Credits generally are provided as a percentage of amounts paid or incurred. This bill would allow a 100% credit, which is unprecedented.

This bill would allow rental owners to claim a credit on a tax that is already deductible, thus providing multiple tax benefits for the same item of expense.

This credit would not be limited to property in California. A taxpayer that rents property to a member of the Armed Forces anywhere in the world and owes California tax could claim the credit.

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